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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 19 January 1995 from the Permanent Mission of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office in Geneva presents its compliments to the Centre for Human Rights and has the honour to enclose herewith the reply of the Iraqi competent authorities to the interim report of Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq.

The said interim report was submitted to the forty-ninth session of the General Assembly in document A/49/651 on 8 November 1994, under agenda item 100 (c).

The Centre for Human Rights is kindly requested to transmit this reply to the fifty-first session of the Commission on Human Rights.

Reply of the Government of the Republic of Iraq to the report on the situation of human rights in Iraq submitted by the Special Rapporteur of the Commission on Human Rights to the forty-ninth session of the General Assembly of the United Nations

For adoption as an official document of the fifty-first session of the Commission on Human Rights

January 1995

I. INTRODUCTION

First of all, as on many previous occasions, the Government of Iraq affirms its wish to cooperate with both international and non-governmental human rights bodies and organizations. Based on that principle, Iraq welcomes any sincere, objective and impartial effort aimed at safeguarding, strengthening and promoting human rights in Iraq. International cooperation unquestionably plays an important role in that connection: the question of human rights in Iraq can neither be addressed one-sidedly by a person who is biased, nor considered in complete isolation from the difficult circumstances besetting it, chief among them being the unjust blanket embargo imposed on Iraq in the name of the United Nations.

How can any fair-minded person entrusted with a mission such as that of the Special Rapporteur take a stand on this serious issue of the embargo by considering it for many years to be beyond his mandate? In his new report, the Special Rapporteur again addresses the issue from a purely political point of view and disregards the ongoing effects of the embargo that can only be described as a crime of genocide, if not the crime of our age. The peculiar thing is that Mr. van der Stoel speaks of an internal blockade and yet is well aware that many of the problems raised in his report, particularly those related to foodstuffs, medication and essential needs, cannot be resolved unless the embargo is lifted.

It is striking that ever since he first assumed the title of a special rapporteur on human rights in Iraq, Mr. van der Stoel has conducted himself in a manner that is far from objective and impartial; he has adopted an antagonistic position towards Iraq by failing to observe the need to rely on dependable or accurate sources, convey information carefully and ascertain its veracity, acting instead at the political level. Mr. van der Stoel is thus a hostile party to Iraq and is clearly participating in the implementation of schemes aimed at dismembering Iraq and fragmenting its people, which is entirely incompatible with the nature of work in the field of human rights as referred to in General Assembly resolution 47/131, adopted in 1993, on strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity. The General Assembly emphasized that the promotion, protection and full exercise of all human rights and fundamental freedoms as legitimate concerns of the world community should be guided by the principles of non-selectivity, impartiality and objectivity and should not be used for political ends. In that connection, the General Assembly requested all human rights bodies within the United Nations system, as well as the special rapporteurs and representatives, independent experts and working groups, to take duly into account the content of that resolution in carrying out their mandates.

In his conduct and reports, Mr. van der Stoel has scarcely done any such thing. The Commission's dialogue with Iraq should be candid and genuine, and should proceed from the inhumane imposition of the embargo on Iraq. Of the United Nations bodies, the Commission should be the first to consider carefully from the humanitarian, legal and political points of view the serious effects resulting from the imposition of economic sanctions and, given their severe implications for all human rights, it should recommend the search

for a means to reduce such effects as far as possible. It is unconscionable that we should be in an era which one might call the era of human rights while at the same time using foodstuffs and medication as an offensive political weapon that destroys peoples.

II. THE SITUATION OF MISSING KUWAITIS

There is not the slightest doubt that the subject of missing persons is one outcome of the Kuwait crisis and the aggression against Iraq. Security Council resolutions 686 (1991) and 687 (1991) addressed this subject and demanded that Iraq should immediately release all persons detained by Iraq and return the remains of any deceased persons so detained. All prisoners and detainees who were in Iraq have been released and repatriated in cooperation with the International Committee of the Red Cross (ICRC). The number of persons released and handed over amounted to 6,222 between March 1991 and on 3 April 1991, the date of the adoption of Security Council resolution 687 (1991), which stipulated that Iraq should provide lists of detainees and facilitate the search by ICRC for persons still unaccounted for. As a result of those two resolutions, a series of meetings was held, first in Riyadh and later in Geneva, where in October 1991, it was decided at a meeting attended by the relevant parties to adopt the method of individual files in the search for missing Kuwaitis. The matter is therefore being dealt with according to the internationally recognized method and within the proper framework, namely ICRC. Accordingly, we first see no justification for the Special Rapporteur to involve himself in this matter, and secondly, we do not believe that his mandate extends to include the subject of missing Kuwaitis. It is also inappropriate for the Special Rapporteur to interfere in a matter being handled by competent international bodies that have made headway towards finding a solution, as well as in relations between the relevant parties under ICRC supervision. Iraq has cooperated positively with ICRC and responded to all initiatives and proposals from numerous heads of State. It also agreed to the establishment of various committees that would even comprise representatives of the Kuwaiti Parliament and demonstrated its readiness to receive such committees. These proposals, however, were rejected by the Kuwaiti side, thus confirming the underlying political purpose of raising this essentially humanitarian and technical subject, which is being used with the intention of ensuring that the economic embargo continues to be imposed against Iraq. Iraq has no interest in holding any Kuwaiti and is persisting in its efforts to bring this matter to a close in its proper context.

In that connection, we wish to state the following facts:

1. ICRC is currently requesting Iraq to reply to 609 files on missing Kuwaitis and foreigners.

2. The number of Kuwaiti, Arab and foreign nationals released and handed over under ICRC supervision amounted to 6,528 and the number of Kuwaitis handed over to ICRC amounted to 6,364. It is worth pointing out that, in Iraq, there are 4,214 Kuwaitis registered with the ICRC mission since 1991 who have expressed their desire to return to Kuwait and who are still awaiting Kuwait's agreement to their return; at 13 July 1994, Kuwait had permitted the return of only 707 individuals.

3. In confirmation of Iraq's firm approach of following the recognized international method in the search for missing persons and its earnest endeavours in that respect, on 8 June 1994, the Ministry notified ICRC that having, as far as possible, taken the necessary technical measures concerning the individual files on missing Kuwaitis and foreigners, it was ready to begin the requisite work.

4. On 26 June 1994, Iraq presented ICRC with the findings of a preliminary investigation of 71 files on missing Kuwaitis. It also processed 38 files on missing foreigners and 30 other files on "bidun". On 21 August 1994, Iraq presented ICRC with a further set of investigative findings on 19 missing person files, including information on the file of one missing Saudi Arabian. On 5 September 1994, Iraq provided ICRC with information concerning 26 files. At 12 November 1994, the number of missing person files processed by Iraq amounted to 195.

5. Representatives of our mission at Geneva attended the trilateral meeting on missing Kuwaitis, held at Geneva on 1 July 1994. At that meeting, the Iraqi delegation stressed that the findings of the Iraqi side represented only the beginning of a serious process and were as much as Iraq had been able to achieve at that point. It further stressed that the competent Iraqi authorities were continuing that work, as they would in the future, according to international principles, despite the difficulties, and that they would not be influenced by the action of hostile parties whose interests perhaps simply lay in exploiting the problem for political reasons rather than in the viable resolution of a humanitarian problem on the basis of accepted international rules and dealings with ICRC. At the conclusion of the meeting, a record was issued that mentioned Iraq's undertaking to ICRC to investigate missing persons and also underlined Iraq's continuing cooperation in that respect.

6. On 6 September 1994, Iraq attended the last meeting held at Geneva on missing Kuwaitis in which the representative of Iraq stressed four main principles: Iraq's commitment to conducting investigations in accordance with ICRC rules and practices; cooperation with ICRC as an impartial mediator in the settlement of this humanitarian question and a provider of technical assistance where necessary; that work should be carried out in full compliance with rules of confidentiality and non-politicization; and that work should be carried out jointly on a cooperative basis and on the strength of reasonably credible information, with the aim of plausibly determining the whereabouts of the persons allegedly missing.

7. During the above meeting, the ICRC representative forwarded a proposal to establish a subcommittee that would meet regularly to expedite the process of inquiry into missing persons, facilitate rapid information exchange, adopt follow-up measures, ensure their prompt implementation and sow trust among the relevant parties. Iraq and the other parties agreed to the proposal, on which basis Iraq also made a number of observations concerning the rules of procedure for the work of the aforesaid technical subcommittee. It is hoped that a meeting of the trilateral commission for missing persons will be held to adopt those rules of procedure with a view to facilitating continuation of its work.

8. Iraq is continuing its efforts to end this matter, to which it attaches exceptional importance at the highest levels. On 21 November 1994, Mr. Tariq Aziz, Deputy Prime Minister, undertook a visit to Geneva during which he met Mr. Sommaruga, President of ICRC, in the framework of those efforts.

III. THE SITUATION OF THE MARSH ARABS

This subject has already been addressed in documents A/49/394, A/47/2, A/48/875 and A/48/387-S/26424 in reply to the accusations of the Special Rapporteur. The truth is that he has added nothing new in his report contained in document A/49/651, in which he again repeats himself, relying on the same sources as in his previous reports. These sources are known for their hostile position towards Iraq, their involvement in conspiratorial schemes hatched against its leadership and their contact with the Iranian regime. The information which they supply is therefore highly dubious, particularly when it is used without being closely scrutinized and examined. In an attempt to impart credibility to the information which he obtained, the Special Rapporteur reports that he sent a mission to the south-western part of the Islamic Republic of Iran in August 1994 (A/49/651, para. 6) which obtained testimonial and documentary evidence (photographs and video-recordings). In fact, the mission referred to did not visit the camps supervised by the Office of the United Nations High Commissioner for Refugees, but a camp of the so-called Iraqi opposition supervised by the Iranian Ministry of Interior. It is astonishing that the Special Rapporteur himself points out that he relies on army deserters and those involved in what he calls the opposition to obtain information on the situation in the marsh area (A/49/651, para. 36). How can we plausibly accept such information as established fact and to what extent can it be described as credible when the Special Rapporteur is at the same time deliberately ignoring the official replies and scientific studies presented by the Government of Iraq?

In document A/49/651, paragraph 38, the Special Rapporteur claims, on the basis of those same sources, that "many people in the marshes have no access to the monthly government food ration cards that are normally available to every Iraqi citizen", which begs the question of who these people are. If they are Iraqi, they are naturally included in the ration card system which, as the Special Rapporteur himself says, is available to every Iraqi citizen. If they are non-Iraqis who are not legally resident in Iraq, there is nothing surplus to needs which they can be given. The Special Rapporteur himself knows better than anyone that the ration card does not meet half of the basic food requirements of the Iraqi people. He cites three reasons which preclude those people from having a ration card and which lead us to understand that they are divided into three categories. The first category consists of residents of the marshes who do not have identification cards. We wish to state here that all inhabitants of Iraq, men, women and children, from the farthest north to the farthest south, are issued with personal identification cards without discrimination, a matter which is governed by the Iraqi laws in force. The second category consists of Iraqi families from among whom a member had perpetrated the crime of evading, or deserting from, military service. This is untrue, since there is no law or decree which prohibits such families from obtaining a ration card and there is not a single instance where any Iraqi family has been deprived of a ration card. The third category

consists of those suspected of having taken part in the 1991 uprisings, as well as those who are not aligned with the Iraqi Government, whom the Special Rapporteur takes it upon himself to include more generally in the category of those who are deprived of ration cards. This is pure absurdity; quite simply, it is utterly illogical and unrealistic. If the Special Rapporteur were to refer to the previous replies of the Iraqi Government concerning the amnesty decrees which it issued as soon as the uprisings were over for all those having taken part and the exclusion of such persons from any questioning in connection with their acts (Iraq's third periodic report on implementation of the International Covenant on Civil and Political Rights, CCPR/C/64/Add.6, para. 15), as well as its reply to his allegations (A/46/647, paras. 29-30), he would find it unreasonable and illogical that, four years after the uprisings ended, those persons or their families should be deprived of a ration card, which is the only source of rations. These outrageous claims affirm our previous statements that the Special Rapporteur relies on false and misleading information which he obtains from sources hostile to Iraq and takes as established fact without scrutiny. For further details concerning the reply of the Government of Iraq to the allegations related to this subject and the threatened lifestyle of the inhabitants of the area, as well as to other claims, inter alia, that they are subjected to indiscriminate bombardment and an internal blockade, see document A/49/394, paras. 96-104.

With regard to the allegations concerning the draining of the marshes and the adverse repercussions on the environment, it is sufficient to point out the following facts:

1. The agricultural land distributed among the farming families living within each project according to governorate, the governorates included being Basrah, Maysan, Thi Qar, Muthanna and Qadisiyah, so far amounts to 1,152,849 dunams, of which 52.5 per cent are in the governorate of Basrah, 27.1 per cent in the governorate of Thi Qar, 9.2 per cent in the governorate of Maysan and 7.6 per cent in the governorate of Qadisiyah.

2. Next season, following completion of the above projects, an estimated area of 79,900 dunams is to be cultivated by the farming families who have settled in the areas.

3. The anticipated number of farming families to be included in the distribution of this land in the governorates amounts to 42,133, of which 28 per cent are in the governorate of Basrah, 53.3 per cent in the governorate of Thi Qar, 12.5 per cent in the governorate of Maysan, 3.7 per cent in the governorate of Muthanna and 3.4 per cent in the governnorate of Qadisiyah.

In addition, these rivers and projects will promote the economic, social and cultural revival of the area through:

1. An increase in the areas of reclaimed arable land that can be exploited to expand the cultivation of strategic crops relating to the country's food security, namely rice, wheat, barley, oil crops, fodder crops and vegetables, which will directly help to develop the country's agricultural sector and improve the production of such crops.

2. An improvement in the living conditions of farming families in the area and an increase in their income through exploitation of the land distributed to them.

3. The improvement and development of animal production in the area.

4. The provision of suitable fishing grounds and development of the country's fish resources.

5. The improvement and development of climatic conditions in the area.

6. Settlement of sand dune movement in the area through the cultivation of a cover of vegetation consisting of woodland trees and pasturage.

7. Helping the alleviation or avoidance of risk from the flooding which occurs in the country.

8. The settlement of some nomadic tribes in the area following the provision of a suitable livelihood.

9. The development of education, since there will be residential communities suitable for primary and middle schools to be opened for the families settling in the area.

10. Improvement of the health conditions of the people in the area by establishing health centres in inhabited areas and providing medication and treatment to combat insect-borne diseases and disease organisms.

IV. LEGAL APPLICATIONS OF CRUEL AND UNUSUAL PUNISHMENTS

In this chapter, the Special Rapporteur discusses the recent decrees of Iraq's Revolution Command Council that include punishments for thieves and deserters from, or evaders of, military service. This subject cannot be considered in isolation from the general situation in Iraq due to the economic embargo now imposed on it for over four years, which has produced damaging effects in all spheres and created phenomena alien to our society, which was previously extremely secure and stable. Predominant among these are theft and armed robbery, which seriously endanger the security, property and lives of citizens. In the absence of any deterrent punishments, Iraqi society was therefore threatened with fragmentation and collapse, particularly since the situation reached the point where the Penal Code in force was no longer adequate; even the severest punishment of the death penalty was no longer adequate or a deterrent.

It was these circumstances that prompted the search for deterrent punishments of a purely preventive and protective nature, which will be abolished when the time is appropriate. It should be noted, however, that these punishments - some of which, such as the amputation of a hand, are an application of Islamic law - are applied only in the case of utmost necessity as imposed by certain crimes which, under these harsh circumstances, cannot be neglected. It is not the case, as the Special Rapporteur indicates, that there is "widespread implementation of these decrees" (para. 61 of his report). The Amnesty International report cited by the Special Rapporteur

concerning implementation of the sentence delivered by the Criminal Court of Diyala to amputate the hands of two men who stole carpets (para. 62 of the report) is similarly untrue. This sentence has not been implemented; on 13 November 1994, it was referred by the Court to the President of the Court of Cassation by way of letter 258/C/1994 and was commuted to a sentence of imprisonment. This affirms our previous statement that the aim of prescribing such punishment is preventive. A large fall in the perpetration of crimes to which these punishments apply has been noted, as has the return of deserters to their barracks after living in crime.

V. POLITICAL KILLINGS

In this chapter, the Special Rapporteur claims that, since taking up his mandate in 1991, he has received information on what he calls "political killings", or in other words, pre-planned killings of individuals. He persists in these claims and repeats numerous allegations in that respect.

Paragraph 72 of the report begins by repeating the allegations contained in the first report submitted to the General Assembly by the Special Rapporteur. The Government of Iraq responded to these allegations in detail. (See document A/46/647.)

In section B.1 of this chapter, the Special Rapporteur alleges Iraq's involvement in the killing of Sheikh Talib Al-Suheil Al-Tamimi in Lebanon, even though he is aware that this incident took place in dubious circumstances. The Government of Iraq proposed forming a joint committee from the Iraqi and Lebanese sides to supervise the investigation and identify the circumstances surrounding the incident. The Lebanese side, however, rejected that proposal.

Although he is sure that the Iraqi authorities are not present in the northern region, the Special Rapporteur continues to hold the Iraqi Government responsible for incidents which take place there. Hence, in chapter V, section B.2, of his report, he holds the Government of Iraq responsible for the killing of the German journalist Lissy Schmidt and her Kurdish bodyguard, who were shot on the road between Said Sadiq and the city of Sulaymaniyah in northern Iraq. The journalist had been working in that region for a period of three years as a correspondent for the French news agency Agence France Presse.

While denying its responsibility for incidents occurring in the northern region for the above-mentioned reasons, the Government of Iraq wishes to draw the attention of the Special Rapporteur to the fact that this region is in a state of anarchy and instability under the control of armed Kurdish parties and militias engaged in internecine fighting, as a result of which it is a stage for subversive operations carried out by infiltrators from neighbouring States. The Government of Iraq is then held responsible for such operations, the aim being to sully and discredit its reputation.

According to well-known information circulating in the northern region, this journalist was covering news of the humanitarian activities in the north of Iraq. She had obtained information concerning two arms deals proposed to Turkey by Germany and Russia respectively. After talking about those arms

being used against the Turkish Kurds, she was accused of working for one of the parties in the region. The information circulating indicates that she was detained, tortured and raped inside prison in Turkey and was released only after the intervention of the German authorities. However, she returned to northern Iraq to resume her former activities and was assassinated there. It will therefore be noted that the fingers of accusation are far from pointing to Iraq.

In chapter V, section B.3, the Special Rapporteur holds the Iraqi Government responsible for the death of Mr. Muhammad Taqi Al-Khoei and claims that it has yet to respond to an earlier request that he had made to the Iraqi authorities.

The Government of Iraq categorically denies its responsibility for the accident in question and wishes to draw the attention of the Special Rapporteur to the fact that it has already responded to a request for information on the same subject from the Special Rapporteur on religious intolerance.

There is no harm in us again providing details of the accident and the traffic sketch produced by the competent Iraqi authorities. The inquiry confirmed that, at 1 a.m. on the night of 21-22 July 1994, the Haidariya police station in Najaf governorate was informed of an accident involving a collision between two vehicles near the Najaf tyre factory, 35 km away from Najaf city centre. The first vehicle was a 1989 Toyota Super bearing Najaf private licence plate No. 2 and the second was a Scania truck bearing Arbil licence plate No. 3438. The accident led to the deaths of Muhammad Taqi Abul Qasim Al-Khoei, Nawwaf Askouri Muhammad, Musa Muhammad Ridha al-Khalkhali and the child Muhammad Musa Muhammad Ridha, who were travelling in the first vehicle. The Najaf Police Chief, the Director of the Traffic Department and the officer in charge of investigations proceeded immediately to the scene of the accident. The driver of the second vehicle was not apprehended, having fled to parts unknown from the scene of the accident, which occurred at night when there were no other vehicles or passers-by in the area. An annual vehicle logbook in the name of Aziz Hajji Qadir was found, together with a general driving licence in the name of Hazim Naji Alwan. The report and sketch of the accident site showed that the driver of the first vehicle, the victim Nawwaf Askouri Muhammad, was driving his vehicle at high speed along the road from the governorate of Karbala towards the governorate of Najaf and, due to his poor vision, failed to notice that the second vehicle was turning, thus causing the accident. No brake marks were seen at the accident site, which indicates that he had not noticed the second vehicle in front of him. The district examining magistrate and Mr. Muhsin Abul Qasim Al-Khoei, a relative of the victim Muhammad Taqi Abul Qasim Al-Khoei, also went to the scene of the accident. The bodies were sent to the Department of Forensic Medicine and the examining magistrate issued a warrant for the arrest of the suspected driver of the second vehicle, Hazim Naji Alwan, pursuant to article 25 of the Road Traffic Act. The arrest warrant was circulated, together with a statement that he lives in the governorate of Arbil, where the vehicle is registered and which is inaccessible due to the present conditions there. Measures are still being taken to arrest him and complete the investigation of the case.

In the conclusions reached by the Special Rapporteur at the end of chapter V of his report, he accuses the Government of Iraq of having a long history of terrorist activities, not just within its own territorial jurisdiction, but beyond. He also accuses it of using terrorism as a means of violating freedom of opinion and expression, silencing dissent and suppressing opposition, and of practising repressive acts against the Shiah.

Here, Mr. van der Stoel adheres to his well-known method of addressing matters by relying on misleading press information, undocumented sources, hostile parties and distorted facts, as if that were the sole aim of his task.

We wish to state that these claims are based on no fact or evidence. As we have previously asserted, there is no discrimination against any religious community in Iraq, where freedom of thought and belief and religious rites are practised in complete freedom, as guaranteed under articles 19 and 25 of the Constitution.

We therefore categorically refute this accusation, which slanders and taints the reputation of Iraq. We wish to affirm the importance attached by Iraq to combating terrorism on the basis of the principles governing its policy and its concern to safeguard international stability and security. This principle is reflected in Iraq's national legislation; under article 21, paragraph 5 (a), of the Iraqi Penal Code, terrorist crimes are not regarded as political crimes. On the contrary, instead of being included among those crimes, they are regarded as normal crimes, even if they are politically motivated. The Code specifies penalties for various crimes considered to fall within the category of terrorist crimes, inter alia, crimes that constitute a public danger, such as arson and causing explosions, crimes that undermine State security and crimes that infringe upon the safety of transport and communications.

Iraqi legislation also attaches importance to addressing the causes of terrorism and to means of protecting the citizen against falling into any practice that could be regarded as terrorism. In the past few years, various decrees and measures have been promulgated that are based on the Iraqi Constitution, particularly in regard to the guarantee of the fundamental rights of citizens without distinction on grounds of race, origin or religion, as well as the rights of national minorities and the freedom of religion and belief. All such decrees and measures are aimed at helping to combat terrorism according to the recommendations and resolutions of the United Nations and the principles of international law.

In the international field, Iraq has repeatedly affirmed before the General Assembly and other international gatherings the need to arrive at a specific definition of terrorism, determine its scope and focus on the need to investigate the underlying causes of the worsening problem of international terrorism before searching for the measures which should be taken to combat it.

It is worth mentioning that Iraq has ratified various conventions adopted by the General Assembly or its organizations related to dealing with different aspects of the problem of international terrorism. Iraq has also maintained its position on this subject, affirming the need to stipulate explicitly that

the measures taken to combat terrorism should in no way jeopardize the fundamental principles of human rights. Furthermore, it condemned on principle terrorist acts in general. Document A/48/267 details the position of the Government of Iraq on this subject.

In this connection, we wish to draw the attention of the Special Rapporteur to the fact that terrorism has been used against Iraq on several occasions, specific agencies having targeted and killed a number of Iraqi atomic scientists. The Government of Iraq refused to carry out similar acts of retaliation in the belief that terrorism is not a valid means of dealing with the political matters of life.

VI. THE RIGHTS TO FOOD AND HEALTH

In this chapter, the Special Rapporteur "assesses" Iraq's compliance with its obligations to respect the rights to food and health pursuant to the International Covenant on Economic, Social and Cultural Rights. He acknowledges that the situation in Iraq continues to deteriorate and that the effects of the sanctions placed on Iraq are of evident relevance to the situation of economic rights generally in Iraq. He also adds that "in the absence of the Government of Iraq's agreement to station human rights monitors throughout Iraq, the Special Rapporteur has no independent means of measuring or assessing the statistical reports communicated to him".

In this connection, we wish to draw to the attention of the Special Rapporteur, as we have already done on several occasions, that the Government of Iraq is fulfilling its responsibilities and obligations pursuant to articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, a matter which does not require assessment by the Special Rapporteur. Similarly, the suffering of the people of Iraq due to the unjust embargo does not require human rights monitors to assess the accuracy of statistical reports submitted in that regard, since those reports are submitted not only by the Government of Iraq, but also in United Nations organizations and missions. We cite as examples the report of the representative of the Secretary-General, Prince Sadruddin Aga Khan, the report of Mr. Martti Ahtisaari, the report of the Food and Agriculture Organization of the United Nations, and the report of the United Nations Children's Fund contained in documents S/22799 and S/22366 and warning No. 237 (1993).

In paragraph 91 of his report, the Special Rapporteur states that Security Council resolution 661 (1990) exempts medication and foodstuffs from the embargo. He forgets, however, that the embargo imposed on the sale of oil has deprived Iraq of its main revenue that would enable it to purchase such items. The freezing of Iraq's foreign bank reserves has likewise deprived Iraq of any financial resources that would enable it to make the necessary payments to purchase its needs in foodstuffs and medication, so that this exemption is of no practical use whatsoever.

On another note, the Special Rapporteur reproaches Iraq for not accepting the United Nations-supervised sale of oil under Security Council resolutions 706 (1991) and 712 (1991), "thereby depriving the Iraqi people of the benefits of that significant resource".

In that respect, we wish to point out that, in addition to the information provided in our replies contained in documents A/49/394 and A/48/875 on the subject, a fair and objective study of the measures adopted under those two resolutions leads to the conclusion that they embody a political approach aimed at undermining Iraq's sovereignty, interfering in its internal affairs, dividing its people on a racial and sectarian basis and failing to ensure the humanitarian needs of the people of Iraq. Despite the timely efforts made by the Government of Iraq during talks with the General Secretariat at Vienna and New York aimed at reaching a sound and acceptable means of ensuring the humanitarian needs of the people of Iraq, they failed to achieve a satisfactory solution and remove the objectives of the political approach imposed under pressure from the United States.

It is noteworthy that the oil and banking experts who were members of the United Nations delegation confirmed that the measures adopted under the two aforesaid resolutions are not recognized in the oil and banking world. No less than 30 procedural steps are required, for instance, to sign a contract for oil export. Moreover, any simple contract to import foodstuffs or medication requires no less than 20 bureaucratic steps for the items included therein to reach Iraq, to say nothing of the monitoring procedures to be carried out by hundreds of United Nations monitors from the time when those items enter Iraqi borders until they reach the consumer.

Agreement to United Nations supervision and monitoring of the sale of oil deprives the Iraqi people of its legitimate right provided for under article 1, paragraph 2, of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It may also continue indefinitely to depend on the pressure and whims of the Powers dominating the Security Council.

In that connection, we would like to question the Special Rapporteur's insistence that "in order to end the suffering of the people of Iraq, the Government of Iraq should act to take advantage of Security Council resolutions 706 (1991) and 712 (1991)", when at the same time he disregards Iraq's compliance with and implementation of the remaining Security Council resolutions whereby it is assumed that the Security Council will fulfil its obligation by permitting the export of Iraqi products and commodities, including oil, thus finally ending the suffering of the Iraqi people. Just like the States that are implementing their political schemes, the Special Rapporteur speaks of these resolutions, not in their legal and technical sense, but in the context of shuffling cards and confusing the situation in the Security Council.

In paragraph 92 of the report, Mr. van der Stoel reiterates the same claims concerning the imposition of an internal blockade in the north and the practice of discrimination on a regional basis, to which we need only respond by referring to our earlier replies contained in documents A/49/394 and A/48/875.

In paragraph 93, the Special Rapporteur discusses the decision of the Government of Iraq to reduce the subsidized food ration. He also refers to a

report of the United Nations Children's Fund, published in October 1994, entitled "Impact of the reduction in food ration on the most vulnerable children and women".

The Government of Iraq provides every citizen with a set ration of basic foodstuffs. That ration, however, does not meet the basic nutritional requirement of the individual. The Government of Iraq reduced the ration for reasons of force majeure in view of the extremely short food supply and the inability to make up the shortage due to the embargo and its effects, as well as the lack of hard currency and insufficient agricultural production, also due to the embargo. Most citizens, who are prevented by the high prices from buying the food items they lack, therefore suffer from malnutrition.

The Special Rapporteur also alleges that certain groups remain privileged in comparison with others, e.g. the military and Baath Party elite. This allegation is false and is pure fabrication; ever since the embargo was first imposed, the Government of Iraq has endeavoured under the ration card system to distribute rations equally among all inhabitants without discrimination of any sort.

The Special Rapporteur states in his conclusions contained in section C of this chapter that "human rights are indivisible and inalienable" and that "they attach to every person". The Government of Iraq affirms its attachment to and unqualified belief in such noble principles, and wishes that such principles were not restricted to slogans and that the suffering of its people were not a matter of bidding and dealing in the name of human rights.

VII. RECOMMENDATIONS

The allegations repeated by the Special Rapporteur resulted in the recommendations made at the end of his report. Naturally, these recommendations are also inaccurate and unobjective, for whatever is based on sham is inevitably also sham. In their regard, however, we wish to make the following observations:

1. Subparagraphs (a), (b), (c), (d), (e) and (f) are beyond the mandate of the Special Rapporteur and are the jurisdiction of ICRC, with which Iraq is cooperating fully. We see no justification for the Special Rapporteur to involve himself in this subject; his mandate does not include it and moreover, it is being carefully studied by the competent international body in cooperation with the relevant parties. Great progress has been made towards reaching a solution.

2. Subparagraphs (g) and (h) are also beyond the mandate of the Special Rapporteur, since they are within the jurisdiction of the Compensation Commission which operates in accordance with Security Council resolution 687 (1991). This Commission undertakes its work without waiting for a recommendation from the Special Rapporteur.

3. The recommendation contained in subparagraph (i) concerning the halting of draining operations in the south of Iraq is incompatible with the principle of the right to development and the right of peoples to dispose of their natural resources. Moreover, it is the duty of the State to draw up national

development policies aimed at constantly improving the prosperity of the entire population. The drainage projects which Iraq is undertaking are central to this subject.

4. As to the recommendation concerning the recent decrees of the Revolution Command Council in Iraq comprising punishments for thieves and deserters from, or evaders of, military service, these decrees were, as mentioned earlier, imposed by the difficult circumstances created by the continued economic embargo against Iraq. They will naturally be reviewed when the situation improves without awaiting a recommendation from the Special Rapporteur in that respect.

5. The recommendations contained in subparagraphs (k) and (l) are based on false allegations and are consequently rejected.

6. With regard to the recommendation contained in paragraph (m) concerning application of Security Council resolutions 706 (1991) and 712 (1991), the Iraqi delegation has already stated its position. Their implementation mechanisms as they stand are complicated and undermine sovereignty. They also have the extremely serious objective of dividing Iraq on a racial and sectarian basis.

7. We completely reject the recommendation contained in paragraph (n) concerning the stationing of human rights monitors throughout Iraq, as do all peoples of the third world who suffered from imperialism, since it undermines sovereignty and independence and takes us back to the days of imperialist control which we long fought to purge.